

REMARKS

Upon entry of this amendment, claims 1-16 and 21-25 will be pending. Claims 17-20 have been canceled. Claims 2, 3, 9-11, 22 and 23 have been withdrawn but must rejoined if a claim from which they depend is allowed. No new matter has been added by this response.

Applicant encloses a credit card form in payment of a one month extension of time. The Commissioner is hereby authorized to deduct any deficiency or credit any overpayment to Deposit Account No. 19-3140.

Claim Rejections under 35 U.S.C. §101

Applicant requests reconsideration of the rejection of claims 1, 4-6, 21, 24 and 25 under 35 U.S.C. § 101, as being directed to non-statutory subject matter. The claims as previously presented defined the support in part using functional language, and did not claim any portion of a patient. Nonetheless, claims 1 and 21 have been amended in conformance with the Examiner's recommendation. Accordingly, Applicant requests the Section 101 rejection be withdrawn.

Claim Rejections under 35 U.S.C. § 112, first paragraph

Applicant requests reconsideration and withdrawal of the rejection of claims 7, 8 and 12-16 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Each of the claims recites a support to support the limb substantially eliminating movement of the limb during the procedure regardless of movement of other portions of the patient. Clearly, the support shown in Fig. 5 supports a limb (i.e., an arm) and substantially eliminates movement of the limb. However, the support does not substantially eliminate movement of other portions of the patient other than the limb. When the patient's arm is supported by the support, the patient is free to move other portions of his body. For example, the patient can move his head, neck and leg while the limb remains substantially unmoved. This subject matter is shown in Fig. 5 and described in the specification beginning at the last paragraph on page 6. Review of this subject matter makes it clear that the inventor was in possession of the invention at the time of filing. Thus, applicant requests the Section 112 rejection be withdrawn.

Claim Rejections under 35 U.S.C. § 112, second paragraph

Applicant requests reconsideration and withdrawal of the rejection of claims 7, 8 and 12-

16 under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter applicant regards as his invention. Each of the claims recites a support for supporting the limb to substantially eliminate movement of the limb during the procedure regardless of movement of other portions of the patient. One such support is shown in Fig. 5. The support supports an arm and limits movement of the arm. However, the support does not limit movement of other portions of the patient. Further, the support supports the limb and substantially eliminates movement of the limb regardless of movement of other portions of the patient. Accordingly, the claims particularly point out and distinctly claim the subject matter applicant regards as his invention. Therefore, applicant requests the rejection be withdrawn.

Claim Rejections under 35 U.S.C. § 102

Applicant requests reconsideration of the rejection of claims 7, 8, 12-16, 21, 24 and 25 under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 6,516,289 (David).

Each of the claims recites a support apparatus including a support adapted to receive at least a portion of the patient's limb thereon to support the limb to substantially eliminate movement of the limb during the procedure regardless of movement of other portions of the patient. The cited reference discloses a simple sling that holds an arm so it moves with the patient. If the patient shrugs his shoulders, the sling pulls the arm upward with the shoulders. Thus, contrary to the claim requirement, the sling does not eliminate movement of the limb during the procedure regardless of movement of other portions of the patient. Further, if the sling were hung from an alternate location as suggested by the Office action, the sling would not substantially eliminate movement of the limb as required by the claim. Accordingly, the Section 102 rejection is improper and should be withdrawn.

Claim Rejections under 35 U.S.C. §103(a)

Applicant requests reconsideration of the rejection of claims 1 and 4-6 under 35 U.S.C. § 103(a) as being unpatentable over David in view of US Patent No. 4,889,131 (Salem). If one were to combine the cited references, the result would have the same deficiency set forth above. In particular, the combine references suggest using a sling support. Thus, the claims would not suggest using a support adapted to receive at least a portion of the patient's limb thereon to support the limb to substantially eliminate movement of the limb during the procedure regardless of movement of other portions of the patient. Accordingly, the claims are not obvious in view of the cited references, and applicant requests the rejection be withdrawn.

Conclusion

Applicant respectfully requests withdrawal of the rejections and believes that the claims as presented represent allowable subject matter.

If the Examiner desires, Applicant welcomes a telephone interview to expedite prosecution.

Respectfully submitted,
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